11 May 1994

NOTE FOR THE FILE

SUBJECT: JFK Board Clearances

From Ed Howell, OS:

All board members but Graff cleared. Graff may be cleared by end of today.

Briefing of board members:

- CIA merely says yes or no
- clearances are SI/TIK/GAMMA
- office of Craig Livingston, White House could brief the board.
- Chuck Easley in Livingston's office could do briefing. He is OPM staffer assigned to White House.

CIT VISIT CERTIFICATION REQUEST
COLLATERAL CLEARANCES AND/OR SCI ACCESSES

Requester Tracy Phone 202-724-0088 Org Assassination Review Bd

PERSON(S) TO BE CERTIFIED:
(Provide * for collateral requests only. Dates = Yr/Mo/Day)

Name Scheinkopf, Eric SSN 070-54-7711 Org ______

*Date of birth 22-OCT-57 *Place of birth ______

*Clnc date/Org 06-Jun-95/ ______ *DOBI/Org By DOD __-__-__/______

Name ______ SSN ______ Org ______

*Date of birth __-__-__ *Place of birth ______

*Clnc date/Org __-__-__/______ *DOBI/Org __-__-__/______

Name ______ SSN ______ Org ______

*Date of birth __-__-__ *Place of birth ______

*Clnc date/Org __-__-__/______ *DOBI/Org __-__-__/______

CLNCS/ACCESSES REQUIRED: ____, ____, ____, ____, ____, ____

Site of visit Historical Review Grp.

Date(s) of visit (From) 06Jun95 (To) 5Jun96

Point of contact John Pereira Phone ( )351-2802

Purpose of visit ______

COTR ______ Agency business? Y N

Received at CIT by ______ Date ______

13-00000

16 May 1994

NOTE FOR THE FILE

SUBJECT: JFK Board Clearances

OS/Clearance Division (Edward) advised us today (16 May) that Board member Henry Graff has been cleared. This completes the clearances for Board members.

13-00000

FOR OFFICIAL USE ONLY

27 October 1994

NOTE FOR THE FILE

SUBJECT: JFK Board/Security Clearances

1. On 27 October, I called Terry O'Connor, FBI to provide him with the following information that he had requested.

The CIA contact person for receiving clearances on staff members of the JFK Board is:

~~Tim Bower~~, Chief/Clearance Division, OS
Jeanette Moore → ~~Dale [illegible]~~, Clearance Division x40620
Tel: 703-482-5620

Sec Fax: 703-893-5235

Uncl Fax: 703-356-6452

2. Bower's secure phone no: x40197 (not passed to FBI).

3. O'Connor said that the FBI is processing clearances for four members of the Board'staff. He also said that David Marwell's clearances have been completed.

JP
John Pereira

cc: File
Harrelson
Boyd
C/HRG

13-00000

10 February 1995

To: C/HRG

Subject: PC Support for Assassination Record Review Board (ARRB) Reviewers

Attached is Scott Nann's note on INFOSEC procedures. It appears that the ARRB reviewers will be able to take laptops in and out of the building as long as security requirement for handling classified diskettes and **Classified PCs** are met. HRG will have to maintain the proper logs and forms.

I propose we implement Situation #3 (board reviewers can carry their own SECRET Laptops daily in & out of the building). Establishing procedures for a LOG and the Form 4261 should not be a problem. We will need 2 or 3 HRG staffers with media badges to fill out the form 4261 or to escort the Board reviewers out of the building.

CERTIFICATION FOR 6 MARCH 1995 SI/TK/G&B

David Marwell	080-30-7709
Thomas J. Gunn	529-74-8907
Thomas E. Samoluk	030-50-1292
Sheryl Walter	506-80-0934

Assassination Records Review Board

600 E Street NW ■ 2nd Floor ■ Washington, DC 20530

MEMORANDUM

April 6, 1995

TO: Barry Harrelson, CIA Historical Review Group

FROM: Tracy Shycoff, Administrative Officer

SUBJECT: Clearances Passed to CIA

Clearances were passed to the CIA Security Office, on Thursday, April 6, 1995 for the following ARRB employees:

Mary McAuliffe, Supervisor Analyst SSN 366-44-4357

Michelle Seguin, Analyst SSN 376-88-5236

The clearances are at the Top Secret level and have been passed for a period of 1 year.

Additionally, Jeremy Gunn (SSN 529-74-8907) previously had his clearance passed to the CIA on January 18, 1995. If you need further information, please call me at the number listed below.

FOR OFFICIAL USE ONLY

11 April 1995

NOTE FOR THE FILE

SUBJECT: JFK Board/Security

1. On 11 April, I received a call from the Chief, Domestic Programs Division, Office of Security Operations (Bob McCants) on the status of the Board's request for security certification of their facility at 600 "E" Street.

2. Room 2617 in the Board's office is approved for storing classified materials. The entire space controlled by the Board will be approved once all of the Board's staff receives SCI clearances. Requests for SCI clearances should be sent by the Board to HRG for forwarding to Director, Office of Personnel Security.

3. Andrew Smith from Bob's office did the security survey at 600 "E" Street on 9 March 1995. Smith can be reached through the Division's front office (x43437 secure, 703-506-7437 open).

John Pereira

cc: File
Harrelson
Boyd
C/HRG

NOTE FOR: J. Barry Harrelson @ DA
Gloria M. Boyd @ DA
Barbara A. Standley @ DA
FROM: John F. Pereira
DATE: 05/01/95 04:33:53 PM
SUBJECT: . JFK Board Staffer's Clearance

Office of Personnel Security, CIB called to pass clearance of following JFK Board Staffer:

Manuel Legaspi (need to check spelling)

SS# 568-53-8907

CC:

Assassination Records Review Board
600 E Street NW ▪ 2nd Floor ▪ Washington, DC 20530

June 14, 1995

Mr. John Pereira
Chief, Historical Review Group
CIA
1820 North Fort Myers Drive
Arlington, VA 22209

Dear ~~Mr. Pereira~~ John:

I have attached a list of ARRB employees who have been granted Top Secret clearances based on SBIs conducted by the OPM/OFI. The ARRB received guidance from the Department of Justice on the adjudication of the cases.

As we have discussed, I would like to request that the CIA take the necessary action to grant appropriate SCI clearances to these employees.

If you require further information, please contact either me or Tracy Shycoff, our Deputy Security Officer, at the number listed below. Thank you for your attention to this matter.

Sincerely,

David G. Marwell
Executive Director

Telephone: (202) 724-0088 ▪ Facsimile: (202) 724-0457

Employee	SSN	Date of Adjudication
Laura A. Denk	509-82-4982	5/2/95
Philip D. Golrick	225-21-0020	4/6/95
Manuel E. Legaspi	568-53-8907	5/2/95
Mary S. McAuliffe	366-44-4357	4/6/95
Eric N. Scheinkopf	070-54-7711	6/6/95
Michelle M. Seguin	376-88-5236	4/6/95
Robert J. Skwirot	209-50-4324	5/23/95
Eileen A. Sullivan	091-66-0890	4/6/95
Kevin G. Tiernan	230-08-5833	4/6/95
Joan G. Zimmerman	469-62-8398	4/6/95

Assassination Records Review Board

600 E Street NW ▪ 2nd Floor ▪ Washington, DC 20530

June 30, 1995

Mr. John Pereira
Chief, Historical Review Group
CIA
1820 North Fort Myers Drive
Arlington, VA 22209

Dear Mr. Periera: eira

I have attached the second list of ARRB employees who have been granted Top Secret clearances based on SBIs conducted by the OPM/OFI. As with the others, the ARRB received guidance from the Department of Justice on the adjudication of the cases.

As we have discussed, I would like to request that the CIA take the necessary action to grant appropriate SCI clearances to these employees.

If you require further information, please contact either me or Tracy Shycoff, our Deputy Security Officer, at the number listed below. Thank you for your attention to this matter.

Sincerely,

David G. Marwell
Executive Director

Telephone: (202) 724-0088 ▪ Facsimile: (202) 724-0457

Mr. John Pereira
June 29, 1995
Page two

Employee	SSN	Date of Adjudication
Christopher M. Barger	469-98-3261	6/20/95
Joseph P. Freeman	186-48-3000	6/20/95
Noelle C. Gray	217-88-4242	6/20/95
Tammi S. Long	249-21-0975	6/20/95
Charles C. Rhodes	575-94-4810	6/20/95
Dennis J. Quinn	146-68-1454	6/20/95
Valerie M. Sails	589-40-1874	6/20/95

Assassination Records Review Board
600 E Street NW • 2nd Floor • Washington, DC 20530
(202) 724-0088 • Fax: (202) 724-0457

September 19, 1995

Mr. John Pereira
Chief, Historical Review Group
CIA
1820 North Fort Myers Drive
Arlington, VA 22209

Dear Mr. ~~Pereira~~: John

As we previously discussed, please initiate the necessary action to grant the appropriate SCI clearances for Carolyn Carpenter, SSN 538-46-7574. Ms. Carpenter's file was reviewed by the Department of Justice Personnel Security Office. The DoJ recommended granting a Top Secret clearance and postponing a decision on SCI pending a CIA review for special exception to DCI Directive 114, paragraph 5C, due to foreign in-laws.

As you may recall from our conversation, Ms. Carpenter is a former CIA employee. I would like to request that the investigation for her SCI clearance be given careful consideration. It is extremely important to the Review Board that our clearances meet the highest standards of the agencies with which we have dealings.

The Review Board has informed Ms. Carpenter that her employment is contingent upon receiving the appropriate clearances. Therefore, I respectfully request that her case be given top priority. If you need further information, please contact either me or Tracy Shycoff, our Deputy Security Officer. Thank you for your assistance in this matter.

Sincerely,

David G. Marwell
Executive Director

13-00000

SECURE FACSIMILE TRANSMITTAL FORM

CSI/HRG
Room 404
Ames Bldg.

DATE: 9/20

ENDING SECURE/FAX TELEPHONE NUMBER: (703)-351-2114

ECEIVING SECURE/FAX TELEPHONE NUMBER: 703-827-2664

UMBER OF PAGES (Including Transmittal Form and Coversheet, if applicable) 3

ROM: John Pereira, C/HRG/CSI
(Name / Office / Extension)

UBJECT: Clearance

TO: (ADDRESSEE / ORGANIZATION / OFFICE / EXTENSION)

.	Jeanette Moore, C/Clearance x 40197
.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

SPECIAL INSTRUCTIONS: Any questions?? Please call Barbara x 30335. Thank you.

RELEASING OFFICIAL: Barbara Standley (PRINTED NAME) Barbara Standley (SIGNATURE)

RECEIVING STATION USE ONLY

Please receipt for material by entering time of receipt/signature and transmit back to sending station.

DATE / TIME: SIGNATURE:

FOUO
(CLASSIFICATION OF MATERIAL TRANSMITTED)

FORM
10-92 4383A

13-00000

FOR OFFICIAL USE ONLY

20 September 1995

MEMORANDUM FOR: Chief, Clearance Division

FROM: John F. Pereira
Chief, Historical Review Group

SUBJECT: Request from JFK Assassination
Records Review Board

1. The JFK Assassination Records Review Board has requested that CIA grant an SCI clearance to a former Agency employee, Carolyn Carpenter. She is being considered for employment with the Board. The request is attached.

2. The Board's request notes that the Justice Department raised a question about the existence of foreign in-laws in Ms. Carpenter's case.

3. David Marwell, the Board's Executive Director, is interested in knowing when a determination is likely to be made on this request. Please let me know what response we should give to Mr. Marwell.

John F.Pereira

13-00000

26 October 1995

As of now the person who is handling clearances for the JFK Board is:

W. Curtis (Curt) Chaloner
x40335

Curt talked with Marwell and set up procedures for sending clearances requests directly to Curt.

Assassination Records Review Board
600 E Street NW • 2nd Floor • Washington, DC 20530
(202) 724-0088 • Fax: (202) 724-0457

MEMORANDUM

November 29, 1995

TO: Barry Harrelson, CIA Historical Review Group

FROM: Tracy Shycoff
Associate Director for Administration
and Deputy Security Officer

SUBJECT: Passing Clearance

I passed the clearance to the CIA Security Office on November 29, 1995, for the following ARRB employee for the purpose of reviewing documents related to the JFK Assassination Records Collection Act held by the CIA:

Joseph P. Freeman **SSN 186-48-3000** **DOB 2/2/56**
Place of Birth Pittsburgh, PA
Clearance Granted 6/20/95

The clearance is at the Top Secret level and has been passed for a period of 1 year. If you need further information, please call me at the number listed above or contact Mark in the CIA Security Office at 703-482-7330.

6 March 1996

Roger Martin, DCI/Security, called today and stated that clearances were passed for Dennis Quinn, 146-68-1454--he is from the ARRB. He was granted TS clearance.

JUL 18 '96 05:14PM CIA/PUBLIC AFFAIRS P.2

Barry

18 July 1996

MEMORANDUM FOR: Chief/VAB/OS

FROM: Karen Gilbert
Public Communication Branch, Public Affairs Staff

SUBJECT: Headquarters Visitors -
Presidential JFK Assassination Records Review Board

1. On Monday July 22, 1996, seven members of the Presidential JFK Assassination Records Review Board (see attached sheet) will be visiting the Agency from 10:00 am-12:00pm along with two members of the Center for the Study of Intelligence.

2. They will arrive in three personal cars. They have been directed to arrive at the VCC at 09:45 for badging and parking directions. They will be met at the OHB lobby by Karen Gilbert, Public Liaison Officer, Public Communications Office. They will be given a tour of the first floor of the OHB and the Exhibit Center and then taken to the EAA Store. Following this they will depart.

3. FOR SECURITY/ACCESS. Please notify the Headquarters Receptionists and the Security Officers at the Main Gate of the date and time of arrival. Please badge our visitors with a Visitor Escort Required badges at the Visitor Control Center and direct them to the Old Headquarters Building lobby entrance and to VIP parking.

4. FOR OFFICE OF MEDICAL SERVICES. Please add them to your visitors list for 22 July 1996.

5. FOR PROTECTIVE PROGRAMS GROUP. Please inform the Security Officers at the 123 Entrance that the cars will be dropping off the group at the OHB lobby entrance and to direct them to parking in the VIP lot.

6. If you have any further questions prior to the day of the visit, please contact Karen Gilbert on x51744. On the date of the visit, please direct any questions or problems to the Public Communications Branch on 482-0623.

Karen Gilbert

Assassination Records Review Board
600 E Street NW • 2nd Floor • Washington, DC 20530
(202) 724-0088 • Fax: (202) 724-0457

MEMORANDUM

June 10, 1997

To: CIA Security Office

From: Tracy Shycoff
Deputy Security Officer

Subject: Passing Clearances

I am passing the clearance for the following ARRB employee for the purpose of reviewing documents related to the JFK Assassination Records Collection Act held by the CIA:

Douglas Horne SSN 285-54-3352 DOB 5/19/52
Place of Birth Oceanside, CA
Clearance Granted 8/22/1995

The clearance is at the Top Secret level and is to be passed through September 20, 1997 to Mr. John Pereira, Chief of the CIA Historical Review Group at 703-613-1805. If you need further information, please call me at the number listed above.

cc: Barbara Standley, CIA Historical Review Group

UNCLASSIFIED

25 July 1997

MEMORANDUM FOR: J. Barry Harrelson

FROM: John F. Pereira

OFFICE: DCI/CSI/HRG

SUBJECT: 4 Assassination Records Review Board Visitors

REFERENCE: We alerted Eileen, Frank

25 July 1997

MEMORANDUM FOR: John F. Pereira

FROM: Roger L. Martin

OFFICE: DCI/AREA SECURITY OFFICER

SUBJECT: 4 Assassination Records Review Board Visitors

REFERENCE: FYI/Retention.

CIB
Compartmented Information Branch

NOTE FOR: Roger L. Martin
DATE: 07/24/97 03:50:32 PM
SUBJECT: 4 Assassination Records Review Board Visitors

The following ARRB employees will be meeting John Pereira (703)613-1805 on 28 Jul 97 and until 01 Aug 97.

Tracy Shycoff SSN:033 42 2144 TS
Thomas Samoluk SSN:030 50 1292 TS
David Marwell SSN:080 38 700 TS, SI, TK, GAMMA and BYE
Thomas Gunn SSN:529 74 8907 TS, SI, TK, and BYE

UNCLASSIFIED

13-00000

f.le

Assassination Records Review Board
600 E Street NW • 2nd Floor • Washington, DC 20530
(202) 724-0088 • Fax: (202) 724-0457

MEMORANDUM

December 3, 1997

To: CIA Security Office

From: Tracy Shycoff
Deputy Security Officer

Subject: Passing Clearances

I am passing the clearance for the following ARRB employee for the purpose of reviewing documents related to the JFK Assassination Records Collection Act held by the CIA:

Charles C. Rhodes **SSN** 575-94-4810 **DOB** 6/3/61
Place of Birth Schenectady, NY
Clearance Granted 6/20/1995

The clearance is at the Top Secret level and is to be passed through September 30, 1998 to Mr. John Pereira, Chief of the CIA Historical Review Group at 703-613-1805. Please note that the CIA holds Mr. Rhodes' SCI clearance if it is needed by Mr. Pereira. If you need further information, please call me at the number listed above.

cc: Barbara Standley, CIA Historical Review Group

13-00000

ASSASSINATION BOARD

Address: 633 Indiana Ave., N.W.

Contacts

Space: GSA: Calvin Snowden (202) 708-5702
CIA: Patti Postel, OS x 43446
(703) 506-7446 (open)

Security White House Office of General Counsel
Marvin Crisloff

Clearances CIA: Ed Howell, OS X40206

Board Chairman - Jack Tunheim (612) 296-2351

13-00000

11 September 1998

MEMORANDUM FOR: Jim Oliver
C/HRG

FROM: Martha Lutz
Chief/Research/PRD

SUBJECT: Secrecy Agreements with Commission Members

1. At your request, PRD searched its files to find information on how secrecy agreements have been handled vis a vis members of commissions dealing with intelligence-related matters. There have been three instances of PRD interface with such commissions. The first was in 1994 when the Joint Security Commission requested a PRB review on its report on Counterintelligence and Security Policies, Procedures and Practices in the CIA in the aftermath of the Ames affair. There is no mention of Commission membership or secrecy agreements in our files, and, in fact, the Commission report was finally and properly re-reviewed by a different entity for official declassification.

2. PRB was also asked to review the final report of the Commission on the Roles and Capabilities of the U.S. Intelligence Commission (Brown Commission) in 1996. Again there is no record of secrecy agreements with Board members in our files.

3. Finally and most recently, the Rumsfeld Commission to Assess the Ballistic Missile Threat to the United States was established in 1998, and its members signed secrecy agreements. John Hedley, PRB Chair, spoke with the members in March, explained pre-publication requirements and emphasized the Board's and staff's willingness to provide guidance and prompt responses to Board members. Since that time, four of the nine Commission members have submitted a total of 12 manuscripts for review.

SECRET

CL BY: 2115436
CL REASON: Section 1.5 C
DECL ON: X1
DRV FRM: HUM 4-82

TO: James R. Oliver@DA
FROM: Ramona G. Dunn-C- @ DCI
OFFICE: EXDIR STAFF
DATE: 09/14/98 10:59:51 AM
SUBJECT: Re: Status of JFK Issues/ARRB Meetings

Jim:
Thanks for the update which I will pass on to the EXDIR. Which Agency staffers are the Board considering deposing? Are they considering deposing officials at other agencies?

On a related issue: On Friday, Marty Boland told me that we (White House, FBI, OIM) can't find the Board's secrecy agreements. Were they located over the weekend?. If not, the EXDIR requests that OIM obtain new signed agreements as soon as possible.

Thanks.
Ramona

Original Text of James R. Oliver
Original Text of James R. Oliver

Dawn: Per our discussion this morning, attached is Barry's status report on the JFK Board actions. Jim O.

Original Text of J. Barry Harrelson
Original Text of J. Barry Harrelson

CL BY: 0611637
CL REASON: Section 1.5 C
DECL ON: X1
DRV FRM: HUM 4-82

14 September 1998

SECRET

From the Desk of R. Bruce Burke
Associate Deputy General Counsel

NOTE FOR: Marne Jensen-Kendrick @ DA
FROM: R. Bruce Burke
OFFICE: OFFICE OF GENERAL COUNSEL
DATE: 09/17/98 08:59:36 PM
SUBJECT: JFK Board Prepublication Review

Marne:

My comments in bold (although my computer quit bolding in paragraph 5).

Bruce

ATTORNEY/CLIENT COMMUNICATIONS

Ramona,

The following represents a summary of where we currently stand regarding the issue of whether secrecy agreements were ever signed by the Assassination Records Review Board ("the Board"), and offers options to address that issue. Thus far, CIA security officials have conducted diligent searches, both internally and externally (FBI, White House), to locate any secrecy agreements that members of the Board may have signed. Those searches have been unsuccessful - to date, no secrecy agreements have been found. We now intend to search selected Agency records systems to see if there exists any reference to, or indication of, particular secrecy agreements that the Board members may have signed. We also will attempt to locate any secrecy agreements the Board staff signed to see if that leads us to any secrecy agreements the members may have signed. At this point, however, the likelihood that these actions will bear fruit are not good.

Our primary goal in this situation is to preserve our prepublication review rights with respect to future writings of the Board members, in order to prevent the inadvertent release of classified information (since it is unlikely that any member of the Board would knowingly reveal classified information). Before considering the options set forth below, it is worth noting that whatever approach we take with the Board, we may encounter some hostility and resistance due to the Board's unhappiness with our position concerning the final statement of compliance that we submitted to the Board. With that in mind, our options are:

1. Do and say nothing, and hope that the Board members will voluntarily submit any future writings for prepublication review.

2. Provide a generic security exit briefing for the Board which mentions their continuing obligation not to reveal classified information in any way, without specifically mentioning prepublication review, and again hope that they will voluntarily submit any future writings for prepublication review.

3. Provide a specific security exit briefing for the Board which expressly mentions that they have an obligation to submit for prepublication review any future writings they plan to publish (related to their work as Board members) as part of their obligation to protect classified information,

and hope the Board members do not ask for the source of this obligation (since we cannot provide them with any signed secrecy agreements). In essence we bluff the Board. (**A variation of this approach would be to have the Board execute an SCI debriefing statement, which includes a prepublication clause, although it is limited to SCI material**)

4. Have the Board members sign secrecy agreements on the way out. This option would be difficult to implement as there would be no incentive for a Board member to sign it (there exist no sanctions for not signing), and it would be legally unenforceable (since the agreement would provide a benefit to the Agency, but not to the Board members, and therefore would not contain the legal consideration necessary to establish a binding contract). We would have to hope that the question of enforceability issue is not raised - essentially, amounting to another bluff.

5. We can rely on language in the Snepp case, as interpreted by the Department of Justice in the mid-1980's, that appears to permit the Agency to write a regulation that requires prepublication review of the possibly classified writings of non-CIA personnel given access to CIA information, to allow the DCI to protect intelligence sources and methods. The regulation would be signed by the DCI, and then the Board would be briefed on their responsibilities and obligations under the regulation.

CC: Martin J. Boland @ DA
Sent on 17 September 1998 at 08:59:36 PM

CONFIDENTIAL

NOTE FOR: *Ramona G. Dunn-C-/@ DCI*
FROM: *R. Bruce Burke*
OFFICE: *OFFICE OF GENERAL COUNSEL*
DATE: *09/18/98 02:32:25 PM*
SUBJECT: *READ IMMEDIATELY: JFK Board Secrecy Agreements Issue*

ATTORNEY/CLIENT COMMUNICATIONS

Ramona,

The following represents a summary of where we currently stand regarding the issue of whether secrecy agreements were ever signed by the Assassination Records Review Board ("the Board"), and offers options to address that issue. Thus far, CIA security officials have conducted diligent searches, both internally and externally (FBI, White House), to locate any secrecy agreements that members of the Board may have signed. Those searches have been unsuccessful - to date, no secrecy agreements have been found. We are also searching selected Agency records systems to see if there exists any reference to, or indication of, particular secrecy agreements that the Board members may have signed. In addition, we are attempting to locate any secrecy agreements the Board staff signed to see if that leads us to any secrecy agreements the members may have signed. At this point, however, the likelihood that these actions will bear fruit are not good. Moreover, this effort has been complicated by the fact that, at the outset, the FBI was given responsibility for the security clearance process relating to the Board.

Our primary goal in this situation is to preserve our prepublication review rights with respect to future writings of the Board members and staffers, in order to prevent the inadvertent release of classified information (since it is unlikely that any member of the Board or its staff would knowingly reveal classified information). The last meeting of the Board will take place on 23 September, and the Board will be out of business as of 1 October. If we wish to address the Board on this issue as a group, the 23 September meeting will be our last opportunity to do so. Otherwise we will have to deal with each Board member and staffer individually, if at all. Before considering the options set forth below, it is worth noting that whatever approach we take with the Board, we may encounter some hostility and resistance due to the Board's unhappiness with our position concerning the final statement of compliance that we submitted to the Board. With that in mind, our options are:

1. Do and say nothing, and hope that Board members and staffers will voluntarily submit any future writings for prepublication review.

2. Provide a generic security exit briefing for the Board which mentions their continuing obligation not to reveal classified information in any way, without specifically mentioning prepublication review, and again hope that they will voluntarily submit any future writings for prepublication review. Board members and staffers sign nothing.

3. Provide a generic security exit briefing for the Board which mentions their continuing obligation not to reveal classified information in any way, and also makes available our prepublication review services to assist them in this regard, if requested, with respect to any future writings (related to their work as Board members or staffers). Board members and staffers sign nothing. The success of this option depends upon the willingness of Board members and staffers to voluntarily submit any future writings for prepublication review.

4. Provide a specific security exit briefing for the Board which expressly mentions that they have an obligation to submit for prepublication review any future writings they plan to publish (related to their work as Board members or staffers) as part of their obligation to protect classified information, and hope the Board does not ask for the source of this obligation (since we cannot provide them with any signed secrecy agreements). In essence, we bluff the Board. Board members and staffers sign nothing.

CONFIDENTIAL

5. In lieu of a security exit briefing, send each Board member and staffer a letter which expressly mentions that they have an obligation to submit for prepublication review any future writings they plan to publish (related to their work as Board members or staffers) as part of their obligation to protect classified information. This approach would make it more inconvenient for the Board to probe for the source of this obligation (which we would be unable to produce since we have not found any signed secrecy agreements). Again, we bluff the Board. Board members and staffers sign nothing.

6. Ask Board members and staffers to sign secrecy agreements on their way out. This option could be difficult to implement as there would be no incentive for a Board member to sign it (there exist no sanctions for not signing), although Board staffers have indicated they would support this approach. Generally speaking, a secrecy agreement signed on the eve of separation from government service would be legally unenforceable (since the agreement would provide a benefit to the Agency, but not to Board members or staffers, and therefore would not contain the legal consideration necessary to establish a binding contract). However, in this case, if the agreement was modified to indicate that it merely reduced to writing understandings which had been previously agreed to by the Board, we would have a strong argument the agreement was legally binding. Of course, this option would alert the Board to the fact that we do not have any secrecy agreements previously signed by the Board. Even if the Board agrees to sign new secrecy agreements before they disband, nothing would preclude them from disputing the enforceability of the agreements at a later date.

6. We can rely on language in the Snepp case, as interpreted by the Department of Justice in the mid-1980's, that appears to permit the DCI to write a regulation to protect intelligence sources and methods by requiring prepublication review of the possibly classified writings of non-CIA personnel who have served in positions of special trust and have been given access to CIA information. The regulation would be signed by the DCI, and promulgated immediately. Then the Board would be briefed on their responsibilities and obligations under the regulation. Of course, nothing would preclude the Board from disputing the validity of such a regulation at a later date.

None of the above options guarantee success. However, I have discussed these options with Dawn Eilenberger, and we believe that Option #__ is the best approach to take. OIM concurs. Please let me know how we should proceed, since our last chance to deal with the Board as a group will be at their 23 September meeting.

Bruce

CC:

CC:

Sent on 18 September 1998 at 04:31:51 PM

CL BY: 0681401
CL REASON: Section 1.5 C
DECL ON: X1
DRV FRM: COV 1-82

18 September 1998

MEMORANDUM FOR: James R. Oliver@DA

FROM: R. Bruce Burke @ DCI
Associate Deputy General Counsel

OFFICE: OFFICE OF GENERAL COUNSEL

SUBJECT: READ IMMEDIATELY: JFK Board Secrecy Agreements Issue

REFERENCE: Note Appended Below

Jim:

Please read and let me know which option you prefer in light of my rewrite.

Bruce

Original Text of R. Bruce Burke
Original Text of R. Bruce Burke

CL BY: 0681401
CL REASON: Section 1.5 C
DECL ON: X1
DRV FRM: COV 1-82

From the Desk of R. Bruce Burke
Associate Deputy General Counsel

SECRET

CL BY: 2115436
CL REASON: Section 1.5 C
DECL ON: X1
DRV FRM: COV 2-87

TO: R. Bruce Burke@DCI
FROM: Ramona G. Dunn-C- @ DCI
OFFICE: EXDIR STAFF
DATE: 09/21/98 05:44:25 PM
SUBJECT: JFK Board Secrecy Agreements Issue

Bruce:
The EXDIR concurs with the OGC recommended option (#5) , provided that the letter is low-key and stresses that the pre-publication review "obligation" is standard operating procedure. Additionally, he requests the opportunity to view the letter in draft. Thanks.

Ramona

(Option 5. In lieu of a security exit briefing, send each Board member and staffer a letter which expressly mentions that they have an obligation to submit for prepublication review any future writings they plan to publish (related to their work as Board members or staffers) as part of their obligation to protect classified information. This approach would make it more inconvenient for the Board to probe for the source of this obligation (which we would be unable to produce since we have not found any signed secrecy agreements). Again, we bluff the Board. Board members and staffers sign nothing.)

CC: Dawn R. Eilenberger@DCI, Valerie O. Patterson@DCI, Robert J. Eatinger@DCI, James E. Archibald@DCI, Paul F. Morris@DA, Edmund Cohen@DA, Lanie P. D'Alessandro@DA, Lee S. Strickland@DA, James R. Oliver@DA, J. Barry Harrelson@DCI, Martin J. Boland@DA, Marne Jensen-Kendrick@DA
Sent on 21 September 1998 at 05:44:25 PM

SECRET

SECRECY AGREEMENT

1. I, ______________________ (print full name), hereby agree to accept as a prior condition of my being employed by, or otherwise retained to perform services for, the Central Intelligence Agency, or for staff elements of the Director of Central Intelligence (hereinafter collectively referred to as the "Central Intelligence Agency"), the obligations contained in this agreement.

2. I understand that in the course of my employment or other service with the Central Intelligence Agency I may be given access to information or material that is classified or is in the process of a classification determination in accordance with the standards set forth in Executive Order 12958 as amended or superseded, or other applicable Executive order, that if disclosed in an unauthorized manner would jeopardize intelligence activities of the United States Government. I accept that by being granted access to such information or material I will be placed in a position of special confidence and trust and become obligated to protect the information and/or material from unauthorized disclosure.

3. In consideration for being employed or otherwise retained to provide services to the Central Intelligence Agency, I hereby agree that I will never disclose in any form or any manner, to any person not authorized by the Central Intelligence Agency to receive it, any information or material in either of the following categories:

a. information or material received or obtained in the course of my employment or other service with the Central Intelligence Agency that is marked as classified or that I know is classified;

b. information or material received or obtained in the course of my employment or other service with the Central Intelligence Agency that I know is in the process of a classification determination.

4. I understand that it is my responsibility to consult with appropriate management authorities in the component or Directorate that employs me or has retained my services, or with the Central Intelligence Agency's Publications Review Board if I am no longer employed by or associated with the Agency, in order to ensure that I know: 1) whether information or material within my knowledge or control that I have reason to believe might be in either of the categories set forth in paragraph 3 is considered by the Central Intelligence Agency to fit in either of those categories; and, 2) whom the Agency has authorized to receive such information or material.

5. As a further condition of the special confidence and trust reposed in me by the Central Intelligence Agency, I hereby agree to submit for review by the Central Intelligence Agency any writing or other preparation in any form, including a work of fiction, which contains any mention of intelligence data or activities, or contains any other information or material that might be based upon either of the categories set forth in paragraph 3, that I contemplate disclosing publicly or that I have actually prepared for public disclosure, either during my employment or other service with the Central Intelligence Agency or at any time thereafter, prior to discussing it with or showing it to anyone who is not authorized to have access to the categories set forth in paragraph 3. I further agree that I will not take any steps toward public disclosure until I have received written permission to do so from the Central Intelligence Agency.

6. I understand that the purpose of the review described in paragraph 5 is to give the Central Intelligence Agency an opportunity to determine whether the information or material that I contemplate disclosing publicly contains any information or material that I have agreed not to disclose. I further understand that the Agency will act upon my submission and make a response to me within a reasonable time. I further understand that if I dispute the Agency's initial determination on the basis that the information or material in question derives from public sources, I may be called upon to specifically identify such sources. My failure or refusal to do so may by itself result in denial of permission to publish or otherwise disclose the information or material in dispute.

7. I understand that all information or material that I may acquire in the course of my employment or other service with the Central Intelligence Agency that fits either of the categories set forth in paragraph 3 of this agreement are and will remain the property of the United States Government unless and until otherwise determined by an appropriate official or final ruling of a court of law. I agree to surrender anything constituting, containing or reflecting such information or material upon demand by an appropriate official of the Central Intelligence Agency, or upon the conclusion of my employment or other service with the Central Intelligence Agency.

8. I agree to notify the Central Intelligence Agency immediately in the event that I am called upon by judicial or congressional authorities, or by specially established investigatory bodies of the executive branch, to testify about, or provide, information or material that I have agreed herein not to disclose. In any communication with any such authority or body, I shall observe all applicable rules or procedures for ensuring that such information and/or material is handled in a secure manner.

9. I understand that nothing contained in this agreement prohibits me from reporting intelligence activities that I consider to be unlawful or improper directly to the Intelligence Oversight Board established by the President, or to any successor body that the President may establish, or to the Select Committee on Intelligence of the House of Representatives or the Senate. I recognize that there are also established procedures for bringing such matters to the attention of the Agency's Inspector General or to the Director of Central Intelligence. In making any report referred to in this paragraph, I will observe all applicable rules or procedures for ensuring the secure handling of any information or material that may be involved. I understand that any such information or material continues to be subject to this agreement for all other purposes and that such reporting does not constitute public disclosure or declassification of that information or material.

10. I understand that any breach of this agreement by me may result in the Central Intelligence Agency taking administrative action against me, which can include temporary loss of pay or termination of my employment or other service with the Central Intelligence Agency. I also understand that if I violate the terms of this agreement, the United States Government may institute a civil proceeding to seek compensatory damages or other appropriate relief. Further, I understand that the disclosure of information that I have agreed herein not to disclose can, in some circumstances, constitute a criminal offense.

11. I understand that the United States Government may, prior to any unauthorized disclosure that is threatened by me, choose to apply to any appropriate court for an order enforcing this agreement. Nothing in this agreement constitutes a waiver on the part of the United States to institute a civil or criminal proceeding for any breach of this agreement by me. Nothing in this agreement constitutes a wavier on my part of any possible defenses I may have in connection with either civil or criminal proceedings that may be brought against me.

12. In addition to any other remedy to which the United States Government may become entitled, I hereby assign to the United States Government all rights, title, and interest in any and all royalties, remunerations, and emoluments that have resulted or will result or may result from any divulgence, publication or revelation of information or material by me that is carried out in breach of paragraph 5 of this agreement or that involves information or material prohibited from disclosure by the terms of this agreement.

13. I understand and accept that, unless I am provided a written release from this agreement or any portion of it by the Director of Central Intelligence or the Director's representative, all the conditions and obligations accepted by me in this agreement apply both during my employment or other service with the Central Intelligence Agency, and at all times thereafter.

14. I understand that the purpose of this agreement is to implement the responsibilities of the Director of Central Intelligence, particularly the responsibility to protect intelligence sources and methods, as specified in the National Security Act of 1947, as amended.

15. These restrictions are consistent with and do not supersede conflict with or otherwise alter the employee obligations rights or liabilities created by Executive Order 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the Military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C., 421 *et seq.*) (governing disclosures that could expose confidential Government agents), and the statutes which protect against disclosure that may compromise the national security, including section 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive Order and listed statutes are incorporated into this Agreement and are controlling.

16. I understand that nothing in this agreement limits or otherwise affects any provision of criminal or other law that may be applicable to the unauthorized disclosure of classified information, including the espionage laws (sections 793, 794 and 798 of Title 18, United States Code) and the Intelligence Identities Protection Act of 1982 (P.L. 97-200; 50 U.S.C., 421 *et seq.*).

17. Each of the numbered paragraphs and lettered subparagraphs of this agreement is severable. If a court should find any of the paragraphs or subparagraphs of this agreement to be unenforceable, I understand that all remaining provisions will continue in full force.

18. I make this agreement in good faith, and with no purpose of evasion.

19. This agreement shall be interpreted under and in conformance with the law of the United States.

Signature

Date

The execution of this agreement was witnessed by the undersigned, who accepted it on behalf of the Central Intelligence Agency as a prior condition of the employment or other service of the person whose signature appears above.

WITNESS AND ACCEPTANCE:

Signature

Printed Name

Date